

REMARKS

By this Amendment, claims 1, 3, 9, 18, 37, 43, 44 and 47 are amended, and claim 36 is cancelled without prejudice or disclaimer to the subject matter therein. After entry of this Amendment, claims 1-35 and 37-48 will remain pending in the patent application. Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

Applicants respectfully note that claim 28 has not been rejected or objected to in the Detailed Action of the Office Action. As a result, Applicants respectfully submit that claim 28 is in condition for allowance.

Claims 3-6, 9-15, 17, 22-23, 26-27, 29-30, 35 and 37-42 were objected to as being upon a rejected base claim but would allowable if rewritten in independent form.

With respect to claim 35, Applicants respectfully submit that this claim is an independent claim. Therefore, Applicants respectfully submit that claim 35 is allowable.

Claim 1 is amended to positively recite the features of claim 3 that were indicated as being allowable by the Examiner in section 9 of the Office Action. Therefore, claim 1 is allowable, and claims 3-6, 15-17, and 27-30 are patentable by virtue of their dependency from claim 1.

Claims 9, 18 and 37 have been rewritten in independent form. Therefore, Applicants respectfully submit that claims 9-14, 19-26 and 37-42 are in condition for allowance.

Accordingly, reconsideration and withdrawal of the objection to claims 3-6, 9-15, 17, 22-23, 26-27, 29-30, 35 and 37-42 are respectfully requested.

Claims 1, 2, 16-21, 24, 25, 31-34, 36, and 43-48 were rejected under 35 U.S.C. §102(e) based on Stoeldraijer *et al.* (U.S. Pat. No. 6,404,499) (hereinafter "Stoeldraijer"). The rejection is respectfully traversed.

Claim 36 is cancelled without prejudice or disclaimer, thus rendering moot the rejection of claim 36.

Claim 1 is patentable over Stoeldraijer at least because this claim recites an optical attenuator device wherein, *inter alia*, the at least one optical attenuator element comprises at least two sheets having edges, the sheets being connected to each other at a common edge and at least one of the sheets being movable with respect to another of the sheets, around an axis formed by the common edge. As pointed out in section 9 of the Office Action, Stoeldraijer does not teach or suggest these features. Therefore, claim 1 is allowable.

Claims 2, 16-17 are patentable at least by virtue of its dependency from claim 1, and for the additional features recited therein.

Claim 18 is patentable over Stoeldraijer at least because this claim recites an optical attenuator device wherein, *inter alia*, the at least one optical attenuator element comprises a plurality of mutually parallel strips which are movable into the beam of radiation and which comprise a material which is between 10% and 100% transparent for the radiation. Stoeldraijer does not teach or suggest a device including these features. Therefore, Stoeldraijer does not teach or suggest each and every feature recited by claim 18 and, as a result, cannot anticipate this claim.

Stoeldraijer discloses a filter unit including a plurality of fingers that are arranged side-by-side and adjacent one another. (*See* col. 9, lines 35-37). Stoeldraijer further discloses that the fingers are independently movable in a direction perpendicular to the elongate beam direction. (*See* col. 9, lines 39-40). However, Stoeldraijer fails to teach or suggest mutually parallel strips movable into the beam and that comprise a material which is between 10% and 100% transparent for the radiation.

The Examiner indicated on page 3 of the Office Action that such feature is inherent. Applicants respectfully disagree and point out that “in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied prior art.” (*See* MPEP 2112 citing *Ex Parte Levy*, 17 U.S.P.Q. 2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

All that is disclosed in Stoeldraijer is that a plurality of fingers are inserted in the beam of radiation. Stoeldraijer, however, does not suggest fingers that comprise a material which is between 10% and 100% transparent for the radiation. With respect to the Examiner’s allegation that the “the background information discloses that anti-reflective coating aid in homogeneity of the radiation,” Applicants cannot find such teaching in the background section of the invention. It is respectfully submitted that the Examiner has failed, in the Office Action, to provide rationale or evidence tending to show inherency. Therefore, claim 18 is allowable.

Claims 19-21, 24 and 25 are patentable over Stoeldraijer at least by virtue of their dependency from claim 18 and for the additional features recited therein.

Claim 31 is patentable over Stoeldraijer at least because this claim recites a filter comprising, *inter alia*, an anti-reflection coating, wherein said anti-reflection coating is present on a central part of the filter, said central part of the filter extending in a longitudinal

direction from one edge of the filter to an opposite edge of the filter and having a length in said longitudinal direction and a width in a direction perpendicular to the longitudinal direction, wherein said width varies over said length, said central part of the filter having a homogeneous transmission of at least 90% for a predetermined type of radiation, wherein a transmission of said central part of the filter is greater than other parts of the filter. Stoeldraijer does not teach or suggest these features. Therefore, Stoeldraijer does not teach or suggest each and every feature recited by claim 31 and, as a result, cannot anticipate claim 31.

As mentioned previously, Stoeldraijer is silent about anti-reflective coating. Furthermore, for the same reasons set forth above, Applicants respectfully submit that the Examiner has failed, in the Office Action, to provide rationale or evidence tending to show inherency. Therefore, claim 31 is patentable. Claims 32-34 are patentable over Stoeldraijer at least by virtue of their dependency from claim 31 and for the additional features recited therein.

Claim 43 is patentable over Stoeldraijer at least because this claim recites a lithographic projection apparatus comprising, *inter alia*, an optical attenuator device for improving a homogeneity of the beam of radiation which is located in the beam of radiation, the optical attenuator device comprising at least one optical attenuator element which removes at least a part of the radiation from the beam of radiation, which is located in the beam of radiation, the at least one optical attenuator element comprising at least two sheets having edges, the sheets being connected to each other at a common edge and at least one of the sheets being movable with respect to another of the sheets, around an axis formed by the common edge. As pointed out by the Examiner in section 9 of the Office Action, Stoeldraijer does not teach or suggest these features. Therefore, claim 43 is allowable. Claim 45 is patentable over Stoeldraijer at least by virtue of its dependency from claim 43 and for the additional features recited therein.

Claims 44 and 46 are patentable over Stoeldraijer at least by virtue of their dependency from independent claim 37, which was indicated as being allowable by the Examiner.

Claim 47 is patentable over Stoeldraijer for at least similar reasons as provided above in claim 1. Namely, claim 47 is patentable over Stoeldraijer at least because this claim recites a device manufacturing method comprising, *inter alia*, producing a projection beam of radiation using a radiation system constructed and arranged to provide a beam of radiation with a homogeneous intensity distribution, comprising a source of radiation, a collector

constructed and arranged to collect said radiation into the beam of radiation, and an optical attenuator device comprising at least one optical attenuator element which removes at least a part of said radiation from said beam of radiation, the at least one optical attenuator element comprising at least two sheets having edges, said sheets being connected to each other at a common edge and at least one of said sheets being movable with respect to another of said sheets, around an axis formed by said common edge.

Claim 48 is patentable over Stoeldraijer at least because this claim recites an optical attenuator comprising, *inter alia*, an attenuator element disposable in a radiation beam path of the lithographic apparatus, such that the attenuator element extends along a narrow, central region of the beam path, the attenuator element comprising a material having a transmissivity of less than 100% at a wavelength of radiation of the lithographic apparatus. Stoeldraijer does not teach or suggest these features. Applicants respectfully note that the Office Action has failed to show where in Stoeldraijer such an attenuator is disclosed. Therefore, claim 48 is patentable over Stoeldraijer.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 2, 16-21, 24, 25, 31-34 and 43-48 under 35 U.S.C. §102(e) based on Stoeldraijer are respectfully requested.

Claims 1, 2, 16 and 36 were rejected under 35 U.S.C. §102(e) based on Nishi (U.S. Pat. No. 6,704,090). The rejection is respectfully traversed.

Claim 36 is canceled without prejudice or disclaimer, thus rendering moot the rejection of claim 36.

Claim 1 is patentable over Nishi at least because this claim recites an optical attenuator device wherein, *inter alia*, the at least one optical attenuator element comprises at least two sheets having edges, the sheets being connected to each other at a common edge and at least one of the sheets being movable with respect to another of the sheets, around an axis formed by the common edge. As pointed out in section 9 of the Office Action, Nishi does not teach or suggest these features. Therefore, claim 1 is allowable.

Claims 2 and 16 are patentable by virtue of their dependency from claim 1.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 2, and 16 under 35 U.S.C. §102(e) based on Nishi are respectfully requested.

Claims 7 and 8 were rejected under 35 U.S.C. §103(a) based on Nishi in view of Riordan *et al.* (U.S. Pat. No. 4,837,794). The rejection is respectfully traversed.

Claims 7 and 8 depend from independent claim 1, which was indicated as being allowable by the Examiner. Therefore, claims 7 and 8 are patentable by virtue of their dependency from claim 1 and for the additional features recited therein.

Accordingly, reconsideration and withdrawal of the rejection of claims 7 and 8 under 35 U.S.C. §103(a) based on Nishi in view of Riordan are respectfully requested.

All objections and rejections having been addressed, Applicants respectfully submit that the application is in condition for allowance, and a notice to that effect is earnestly solicited.

If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP



ROBERT C. PEREZ

Reg. No. 39328

Tel. No. 703.905.2159

Fax No. 703.905.2500

RCP/CFL  
P.O. Box 10500  
McLean, VA 22102  
(703) 905-2000